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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,898	08/11/2005	Meinhard Schwaiger	66376-353-7	8009

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EXAMINER

LEYSON, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/533,898	Applicant(s) SCHWAIGER, MEINHARD	
	Examiner Joseph Leyson	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
 - (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
 - (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
 - (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
 - (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
 - (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
 - (g) BRIEF SUMMARY OF THE INVENTION.
 - (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
 - (i) DETAILED DESCRIPTION OF THE INVENTION.
 - (j) CLAIM OR CLAIMS (commencing on a separate sheet).
 - (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
 - (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).
2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required.

Claim 15 recites the openings as bores having a diameter of less than 1.0 mm (which does not include 1.0 mm), and claim 16 recites the openings as bores having a diameter between 0.5 and 0.7 mm. However, the specification (p. 4) recites that the bores have a diameter of preferably 0.5mm, of up to 1.0 mm, or of up to 1.5 mm.

Claim 18 recites the openings as slits having widths of about 0.7 mm. However, the specification (p. 4) recites that the slits have widths preferably less than 0.7 mm (which does not include 0.7 mm).

Claim 25 recites "centering means" which is not disclosed by the specification. Note that the rejection of claim 25 under 35 USC 112, 1st paragraph, below, should be overcome before adding such means to the disclosure.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claims 23 and 25 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Note that the rejection of claims 23 and 25 under 35 USC 112, 1st paragraph, below, should be overcome before adding these features to the drawings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 23 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 23 recites "flow guiding elements" in the interior space. The specification (p. 5) discloses flow guiding elements to increase the flow velocity of the cooling medium. However, the specification does not disclose how the flow guiding elements

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are made to enable such an increase in flow velocity. How is the flow guided such that a flow velocity increase occurs? No new matter should be added to the specification.

Claim 25 recites "centering means". However, the specification does not disclose centering means. How are such centering means made so that accurate alignment of the individual parts occurs?

No new matter should be entered.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15-18 recite "the openings" which is indefinite because it can have multiple antecedent bases. The examiner suggests changing "the openings" in claims 15-18 to --the openings which connect the passage and the interior space--.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 14, 23, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Lehtinen (U.S. Patent 5,516,270).

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Lehtinen (U.S. Patent 5,516,270) teaches a device for cooling and calibrating plastic profiles, including a housing 6 having an entry opening and an exit opening for a profile to be processed, a sleeve 5 disposed within the housing which connects the entry opening and the exit opening and encloses a passage essentially corresponding to the outer contour of the profile 1 and containing the profile 1 to be guided, said sleeve 5 completely surrounding the profile 5 inside the device, a vacuum system (i.e., col. 2, lines 39-43) for generating a vacuum in the gap between profile and sleeve, which is connected to small openings 17 provided in the sleeve 5, and at least one interior space 12, 22 which is filled with a cooling medium during operation of the device and is provided with an inflow opening and an outflow opening for cooling medium such that a flow of the cooling medium can be generated in the interior space 12, 22 (i.e., col. 2, line 44, to col. 3, line 2), wherein the sleeve 5 includes at least one thin-walled section separating the passage from the interior space (i.e., figs. 1-3), and openings (i.e., figs. 1-3; col. 2, lines 49-52) are positioned in this section which connect the passage and the interior space 12, 22. 28. The openings are located primarily in areas corresponding to the visible areas of the profile 1 (i.e., figs. 1 and 2). The openings are configured at least partly as slits on the interior wall of the sleeve 5, said slits communicating with the outside of the sleeve 5 via bores (i.e., figs. 1 and 2). Flow guiding elements are provided in the interior space to increase the flow velocity (i.e., col. 2, line 62, to col. 3, line 1; col. 3, lines 35-45).

Claim Rejections - 35 USC § 103

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10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehtinen (U.S. Patent 5,516,270).

Lehtinen (U.S. Patent 5,516,270) discloses the device substantially as claimed, as mentioned above, except for the dimensions of the device as recited by instant claims 15-20.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the device of Lehtinen (U.S. Patent 5,516,270) with the dimensions of instant claims 15-20 because where the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device is not patentably distinct from the prior art device, In Gardner v. TEC Systems, Inc., 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984).

12. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehtinen (U.S. Patent 5,516,270) in view of Takahashi (U.S. Patent 3,668,288).

Lehtinen (U.S. Patent 5,516,270) discloses the device substantially as claimed, as mentioned above, except for an air feeder opening, as recited by instant claims 21 and 22.

Takahashi (U.S. Patent 3,668,288) discloses at least one coolant liquid or air feeder opening (i.e., one or more of 56d1, 56d2, etc.), in addition to other openings (i.e., the other of 56d1, 56d2, etc.), which communicate with a coolant supply source via a feeder line (i.e., 57d1, 57d2, etc.) and a valve (i.e., fig. 4; col. 9, lines 48-62). If the profile does not have to or must not be cooled quickly, coolant air may be introduced from its supply source (i.e. col. 10, lines 45-47).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the device of Lehtinen (U.S. Patent 5,516,270) with at least one coolant air feeder opening, as disclosed by Takahashi (U.S. Patent 3,668,288) because such a modification would enable the device to cool profiles which do not have to or must not be cooled quickly.

13. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehtinen (U.S. Patent 5,516,270) in view of Kessler (U.S. Patent 4,181,487).

Lehtinen (U.S. Patent 5,516,270) discloses the device substantially as claimed, as mentioned above, except for the housing and sleeve consisting of a plurality of parts and centering means, as respectively recited by instant claims 24 and 25.

Kessler (U.S. Patent 4,181,487) discloses a device for cooling and calibrating profiles which includes a plurality of parts 34 for interchangeability and for cleaning and centering means 80 for accurate alignment of the parts 34, the parts 34 having partitioning faces parallel to the longitudinal extrusion direction (i.e., fig. 2, col. 5, lines 23-35). Note that applicant discloses (instant specification p. 5) that parts having

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partitioning faces parallel to the longitudinal extrusion direction can be disassembled during operation.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the device of Lehtinen (U.S. Patent 5,516,270) to consist of a plurality of parts and/or with centering means, as disclosed by Kessler (U.S. Patent 4,181,487) because such a modification would enable interchangeability and cleaning of the device.

14. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehtinen (U.S. Patent 5,516,270) in view of Racioppi et al. (U.S. Patent 5,943,756).

Lehtinen (U.S. Patent 5,516,270) discloses the device substantially as claimed, as mentioned above, except for the plurality of housings, as recited by instant claim 26.

Racioppi et al. (U.S. Patent 5,943,756) discloses a device for cooling and calibrating profiles which includes a plurality of housings 10-16 on a common plate 18 one behind the other and aligned in longitudinal direction enabling changeover (i.e., col. 2, line 63, to col. 3, line 15).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the device of Lehtinen (U.S. Patent 5,516,270) with a plurality of housings on a common plate one behind the other and aligned in longitudinal direction, as disclosed by Racioppi et al. (U.S. Patent 5,943,756) because such a modification would enable changeover.

15. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehtinen (U.S. Patent 5,516,270) in view of Preiato et al. (U.S. Patent 5,340,295).

Lehtinen (U.S. Patent 5,516,270) discloses the device substantially as claimed, as mentioned above, except for a self-priming water pump, as recited by instant claim 27.

Preiato et al. (U.S. Patent 5,340,295) discloses a self-priming water pump 38 connected to an outflow of a vacuum sizing apparatus which enable flow of water therein (i.e., figs. 3-4; cols. 3-5).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to connect the outflow of Lehtinen (U.S. Patent 5,516,270) to a self-priming water pump because such a modification would enable water flow as disclosed by Preiato et al. (U.S. Patent 5,340,295).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maillefer (U.S. Patent 4,543,051) is cited as of interest to show the state of the art.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (571) 272-5061. The examiner can normally be reached on M-F 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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